



Agenda Date: 06/23/04

Agenda Item: 2C

State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
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ENERGY

IN THE MATTER OF THE ESTABLISHMENT OF)
A UNIVERSAL SERVICE FUND PURSUANT TO)
SECTION 12 OF THE ELECTRIC DISCOUNT)
AND ENERGY COMPETITION ACT OF 1999)

UNIVERSAL SERVICE FUND
ORDER APPROVING NEW
USF PROGRAM YEAR RATES
AND NEW LIFELINE RATES

DOCKET NO. EX00020091

(SERVICE LIST ATTACHED)

BY THE BOARD:

Background/Procedural History

The Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (EDECA or the Act) provided that the Board establish a non-lapsing Universal Service Fund (USF) to assist low income customers with payment of their electric and gas bills. By Order dated November 21, 2001, in Docket No. EX00020091, an interim Universal Service Fund (USF) program was established in the form of a one-time fixed credit of \$200, using existing eligibility for the federally funded Low Income Home Energy Assistance Program. (LIHEAP) By Interim Order dated October 30, 2002, also in the same docket, the Board further determined that USF assistance should be afforded to renters whose utility heating costs are included in their rent payments, and an individual renter's benefit of \$100 was found to be appropriate by the Board.

On April 30, 2003, in this same docket, the Board established a USF on a permanent basis, and on July 16, 2003 ordered that statewide electric and gas rates be designed to recover a USF budget of \$30 million including a cap of 10% on administrative costs (one-time start-up costs were not subject to the cap), to be effective August 1, 2003. The Board approved a fully funded USF program for the first year of the program. The Department of Human Services (DHS) was determined to be the administrator of the USF.

USF enrollment began in October 2003 with 133,038 accounts, or approximately 100,000 households enrolled (the 133,038 figure includes gas and electric accounts, and some customers are enrolled in USF for both gas and electric). This extremely high enrollment for a new program was attributable both to the success of the automatic enrollment process and the high energy burdens that thousands of low-income customers had to pay each month.

Specifically, the data indicates that roughly 22,000 of the initial households were paying more than 20% of their pre-tax income on energy bills, even after LIHEAP and Lifeline credits were applied. Another roughly 33,500 families were paying between 10% and 20% of their pre-tax income on energy. Without USF, it would be very difficult for any of these customers to consistently pay their energy bills.

Board Staff and DHS had originally planned only one automatic enrollment screening in October 2003. However because the direct application system is not scheduled for completion until late 2004, there was a need to develop a way for customers to access USF who had not been identified by the first automatic screening. In order to address this problem, DHS and the Board decided to perform two additional automatic screenings - one was done in April 2004 and another is planned for September 2004. Additionally, the utilities and the state agencies promoted application to LIHEAP during the winter of 2003-2004 as a way to access USF. This, coupled with the extension of the LIHEAP application period to May 1, 2004, has provided opportunity for customers who feel they should be in USF to apply for the program via LIHEAP. The recently completed April screening resulted in the enrollment of 21,461 additional USF accounts or approximately 15, 000 households with annual benefits totaling approximately \$11.1 million. The average USF benefit for all customers enrolled thus far has been approximately \$500.

In its July 16, 2003 Order, the Board directed the electric and gas utilities to file compliance filings for the new USF rate setting for the following program year, including notice and scheduled public hearings by April 1, 2004, with tariffs to be effective July 1, 2004. Pursuant to the Board's Order dated July 16, 2003 in the above docket, the seven gas and electric utilities filed notice and support for the rate setting process on April 1, 2004 for the revised factor to be included in their Societal Benefits Clause (SBC) related to the operations of the USF. Draft notices for public hearings scheduled for this proceeding were also filed with proposed tariff sheets for the adoption of the revised statewide factor to be effective July 1, 2004, based on a \$105.5 million budget. The proposed rates included in compliance filings are related solely to USF and not Lifeline because at the time there was insufficient information available on the new Lifeline budget to calculate the Lifeline rate. The utilities have since supplied the calculation of the new Lifeline factor.

Based on estimates for the cost of USF for 2003-2004 and the expected costs for 2004-2005 that were available at the time of the compliance filing, the utilities proposed that statewide rates should be set to recover a \$105.5 million USF budget. However, on May 21, 2004 PSE&G, on behalf of all the utilities, provided an updated USF budget in the amount of \$113.2 million, including new proposed rates. This revised budget incorporated more accurate estimates of the benefits owed to customers that were automatically enrolled in April 2004. The utilities are requesting recovery of the \$113.2 million and their public notices provided for increases over and above the \$105.5 million. Since the utilities provided their updated budget, DHS has also provided more up-to-date data, including an estimate of benefits for new customers who will apply directly for USF starting in November 2004. The more recent DHS numbers combined with the updated utility budget result in an estimated \$121 million budget. The following is a breakdown of the three budget scenarios:

	USF Original Budget April Filing	Utility Updated Budget	USF Updated Budget Per DHS
Est. benefits for October 2003 automatic enrollees	\$67,000,000	\$67,000,000	\$60,599,344 (92% retention)
Est. benefits for April 2004 automatic enrollees	\$6,700,00	\$11,090,743	\$10,166,514
Est. benefits for Aug./Sept. 2004 automatic enrollees	\$0	\$0	\$3,000,000
Est. benefits for new direct application enrollees (Nov. 2004 – June 2005)	\$0	\$0	\$10,301,888
Utility Admin. Costs	\$460,876	\$504,068	\$504,068
DHS/OIT/DCA startup and Admin. Costs	\$3,000,000	\$3,000,000	\$4,856,904
Est. Arrearage Payment Program costs	\$8,800,000	\$12,518,050	\$12,518,050
Est. Program Under recovery at June 30, 2004	\$19,542,354	\$19,086,215	\$19,086,215
Total	\$105,503,230	\$113,199,076	\$121,032,983

Comments were requested by Staff from interested parties on how the compliance filings should be handled procedurally and on the appropriate mechanism for the utilities to recover their administrative and carrying costs. Comments were due May 14, 2004 and replies due May 21, 2004. Initial comments were filed by the PSE&G, Rockland Electric Company (RECO), NUI Elizabethtown Gas Company (E'town), New Jersey Natural Gas Company (NJNG), Jersey Central Power and Light Company (JCP&L), Conectiv, South Jersey Gas Company (SJG), New Jersey Citizen Action (NJCA), and AARP. Replies were filed by June 1, 2004 by the Division of the Ratepayer Advocate (RPA) PSE&G, NJNG and JCP&L.

Public hearings with respect to the proposed gas and electric USF factors to be effective July 1, 2004 were held on:

- ✍ May 11, 2004, at Rahway Municipal Colonial Court Chambers, covering PSE&G and E'Town service territory.
- ✍ May 12, 2004, at Montvale Holiday Inn, covering PSE&G and RECO service territory.
- ✍ May 18, 2004, at Hammonton Public Library, covering Conectiv and SJG service territory.
- ✍ May 19, 2004, at the Freehold Township Municipal Building, covering New Jersey Natural Gas and Jersey Central Power & Light service territory.

One residential customer attended the Rahway public hearing to voice concerns; however, his concerns were not very specific in nature.

On June 2, 2004, the RPA filed comments opposing the inclusion of the updated numbers submitted by PSE&G on May 21, 2004, claiming the public had not received sufficient notice and opportunity for comment. On June 8, 2004, PSE&G responded to the RPA stating its argument is without merit and notice was provided.

Discussion

Compliance Filings

It has been difficult to arrive at the proper level for USF rates because a number of variables that impact the calculations have a high degree of uncertainty. These uncertain variables include the rate at which customers will be successful in earning forgiveness under the arrearage payment program, known as the Fresh Start program; the number of customers who will be enrolled during the final automatic enrollment sweep; and the rate at which customers will apply for the program once the direct application system, formerly called the manual enrollment system, is complete.

Because of these uncertainties, utilities have requested authority to self-implement increases in the SBC upon 30 days notice to the Board and RPA under the condition that the increases are designed to recover additional increases in the USF budget of \$5 million or more. Such increases would be reconciled in the company's next scheduled annual USF compliance filing to be made no later than April 1, 2005.

The following is a breakdown of the present USF and Lifeline rates; proposed USF rates based on the \$105.5 million budget and the new proposed Lifeline rates submitted on April 1, 2004; proposed rates based on the May 21, 2004 update; and proposed rates based on the budget that included the most recent information available from DHS:

	Present	Present (Incl. SUT)	Proposed 4/1/04	Proposed 4/1/04 (Incl. SUT)	Proposed 5/21/04	Proposed 5/21/04 (Incl. SUT)	Proposed Per DHS Update	Proposed Per DHS Update (Incl. SUT)
USF- Electric per kWhr	.000345	.000366	0.000837	0.000887	0.000897	0.000951	.000959	.001016
USF- Gas per therm	.002326	.002466	0.0081	0.0086	0.0088	0.0093	.009367	.009929
Lifeline- Electric per kWhr	.000751	.000796	.000670	.000710	.000670	.000710	.000670	.000710
Lifeline- Gas per therm	.005074	.005378	.0041	.0043	.0041	.0043	.0041	.0043

The utilities believe their entire requested amount for USF (\$113.2 million) should be implemented July 1, 2004, without delay. NJCA supports recovery of the initial 105.5 million budget. RPA is not opposed to implementing the rates effective July 1, 2004 on an interim basis, subject to refund. However, RPA and AARP believe that the initial \$105.5 million budget filed by utilities should be reduced by 10% to account for the uncertainties in calculating the USF budget.

All parties other than the utilities believe that the utility administrative costs should not be recovered until a further evaluation is completed that assesses the net cost impact of USF on utilities, considering both incremental administrative costs and incremental savings. These savings could include reduced collection expenses, increased bill payment rates and decreased shut-offs. These parties urge that this data be collected and evaluated over the coming year and, if savings are found, that utilities only recover net USF expenditures. The utilities believe these costs should be recovered before an assessment of the net cost of USF. Board Staff supports the deferral of utility administrative costs until there is an assessment of the savings utilities have realized as a result of the USF program.

With regard to the self-implementing mechanisms, the utilities believe this would allow for a more timely reconciliation of amounts expended for USF, minimize future under-collection balances, including associated interest, and provide greater stability by reducing the magnitude of year-end reconciliations. NJCA, RPA and AARP oppose any use of "self-implementing mid-year rate adjustments," as the USF program is too new and is surrounded by too many uncertainties. Moreover, RPA notes that the precedent for this type of mid-year rate adjustment is to account for large swings in natural gas prices, which are of a financial magnitude that dwarfs any USF expenses; therefore, granting such a self-implementing mechanism does not seem justified given the relatively small magnitude of USF expenses.

With regard to interest on under-recoveries and administrative costs, the utilities are proposing to net out both their administrative costs and carrying costs as of June 30 from their July remittance to the clearinghouse, which would avoid the issue of whether interest should be rolled over into the subsequent year. RPA does not agree with the utility proposal of the netting administrative and carrying costs from remittances to the clearinghouse and would prefer some third party involvement.

Finally, in developing the budget and assessing program costs for the 2004-2005 benefit year, the USF Working Group determined that because of the timing of the completion of the direct application system, there would be a gap in USF benefit delivery for the roughly 135,000 accounts that were initially enrolled in USF in October 2003. While the direct application system is scheduled for completion in November 2004, the benefit year for these initial enrollees will expire in September 2004. The USF Working Group agreed that it would be inappropriate to leave a gap in the provision of benefits for the majority of USF customers, and that the benefits for initial USF enrollees should be extended and recalculation of their benefit levels be delayed until such time as they can apply for a recalculation of their eligibility and benefit status without an interruption in the delivery of benefits.

Lifeline

A separate factor for Lifeline was calculated and was adjusted downward due to the fact this year did not require compression of rates, although the budget remains the same. The proposed budget received from the Department of Health and Senior Services (DHS&S) remains the same at \$72 million.

Apprise Consultant Report – Data & Reporting Requirements

Apprise, Inc. was retained as a consultant and furnished a report that outlines proposed data and reporting requirements and a plan to implement these proposed requirements. This document outlines the basic structure, data elements, and reports that would be necessary to effectively run and evaluate USF.

The report is broken down into three sections for the three basic uses of data: day-to-day program operations, regulatory oversight and program evaluation. For each of these three categories, the report identifies questions that need to be answered by the data, the data that is needed to answer these questions, the potential sources of those data, and the proposed system for data access and reporting. The implementation plan identifies the process by which more detailed data specifications will be developed and the schedule for implementing different components of the Data Tracking System.

The report recommends that an impact evaluation be conducted to examine the benefits and costs of the first year of USF (October 2003 through September 2004). The report also recommends that a concurrent Process Evaluation be scheduled for the 2005 USF program year (October 2004 to June 2005).

Because the Board will need consistent information on the continuing performance of the USF program over the long-term, once the results from the FY 2004 impact evaluation and the FY 2005 process evaluation are complete, the report recommends a longer-term evaluation plan should be developed. During the third quarter of calendar year 2004, BPU staff should work with the USF Working Group to refine the evaluation scope and prepare an RFP to hire a third-party evaluator. Given the timing of the RFP, it is expected that the evaluator should be hired by October 1, 2004, and that the evaluation report for the first program year should be completed by the end of the first quarter of calendar year 2005. This would give the Working Group and the BPU time to decide how the findings from the evaluation should affect USF program guidelines for the program year starting July 1, 2005. The 2005 Process Evaluation should be completed by June 2005. That would give the USF Working Group information for making enhancements in program operations during the 2005-2006 USF Program Year.

The USF working group has endorsed the Apprise report. Staff has recommended some minor changes to Table 6, which is page 23 on Attachment C to this document. For the target completion date for utility program operations for customer service responsibilities, Board Staff is recommending a change from June 2004 to July 2004. For DHS/OIT program reports, Staff is recommending a change from July 2004 to August 2004 and for the preparation of a RPF from June 2004 to July 2004. With these modifications, Staff recommends Board approval of the implementation plan.

Recommendation

Compliance Filings – USF and Lifeline Rates

The Board believes the \$113.2 million budget contains the most reasonable estimate of program costs moving forward. Some interested parties have cited the uncertainties in program costs as justification for a 10% reduction in the USF budget estimates. However, experience has shown that the uncertainties in program costs can mean that budget estimates are low or high, therefore a 10% reduction in the budget estimate does not seem like it will lead to a more accurate prediction of program costs for the coming year.

The 2003-2004 budget was higher than originally projected because customers' energy burdens proved far greater than originally estimated and the automatic enrollment process was very effective. There are, however, factors that will help reduce the cost of USF in the future. It is anticipated that USF will save utilities money from reduced uncollectibles and write offs, and

reduced collection expenses. Early data shows that USF is having a positive effect on the bill payment rate of USF customers. In addition, the USF customers with the highest total energy burden are being directly referred to the New Jersey Comfort Partners program to receive weatherization of their home. This will significantly reduce these customers' utility bills, and, in turn, will reduce the size of their USF benefit or eliminate their need for USF all together.

With regard to utility administrative costs, although these costs are low and only a minor portion of the overall budget (roughly 0.4%), the Board recognizes the importance of measuring the net cost impact of USF on utilities. Therefore, until we have an appropriate assessment of cost savings realized by utilities because of USF, the Board feels it is appropriate to defer recovery of any utility administrative costs associated with USF.

As noted, the USF budget for the upcoming year has been difficult to project because some key variable have a high degree of uncertainty. We expect that next year, with far more data on the program, we will be able to make even more accurate budget projections.

The Board FINDS the new rates should be implemented on an interim basis, until such time the Board can address in a separate forum concerns raised by a number of the parties about, among other issues, the net cost impact of USF. After review of the compliance filings and all updated information, the Board HEREBY APPROVES new statewide USF rates designed to recover the \$113.2 million budget, minus utility administrative costs described above, with tariffs to be filed effective July 1, 2004. With regard to Lifeline, the Board HEREBY APPROVES new Lifeline rates designed to recover a budget of \$72 million. The following chart reflects the new statewide USF and Lifeline rates effective July 1, 2004:

	Proposed	Proposed (Incl. SUT)
USF – Electric per kWhr	.000892	.000946
USF-Gas per therm	.0088	.0093
Lifeline-Electric per kWhr	.000670	.000710
Lifeline-Gas per therm	.0041	.0043

With respect to the self-implementing increase mechanism up to \$5 million, the Board DENIES approval at this time. The relative size of the potential swings in program costs are too small to justify considering a self-implementing rate increase such as the utilities have proposed.

With respect to the potential gap in the provision of USF benefits during the upcoming USF budget year due to the timing of the completion of the direct USF application system, the Board HEREBY ORDERS that customers who were automatically enrolled in USF in October 2003 shall have their initial benefit year extended until such time as the direct application system is completed and these customers can apply for a recalculation of their eligibility in time to receive their updated USF benefits (if eligible) without an interruption in the delivery of their monthly USF benefit.

With regard to interest on under-recoveries and administrative costs, the utilities are proposing to net out (subtract) both their cumulative administrative costs and interest costs as of June 30, 2004 from their July remittance to the USF Trust Account ("Trust Account"), which would avoid the issue of whether interest should be rolled over into the subsequent year. The Board agrees with RPA that the utility proposal of the netting administrative and carrying costs from remittances to the Trust Account should not be utilized since it involves no third party involvement. Therefore, with respect to the mechanism for utility recovery of their administrative and carrying costs, the Board ORDERS these costs be added to the monthly amount transferred back to the utilities from the Trust Account, which would be authorized by the Board's Division of Audits.

Apprise Consultant Report – Data & Reporting Requirements

The USF working group has endorsed the Apprise consultant report which outlines all of the data and reporting requirements necessary for effectively operating and evaluating the USF program. Staff has recommended some minor changes to the implementation schedule. After review of the report which includes the implementation plan, the Board HEREBY APPROVES the Apprise report and the implementation plan with the minor changes recommended by Staff.

In conclusion, the Board HEREBY APPROVES the following with regard to USF and Lifeline for the new program year:

- ✍ New USF rates designed to recover a \$113.2 million USF budget reduced by the utility administrative costs (which will be deferred), are approved on an interim basis with tariffs to be filed effective July 1, 2004;
- ✍ New Lifeline rates are approved designed to recover a \$72 million budget with tariffs to be filed effective July 1, 2004;
- ✍ Utilities will not be permitted to use a self-Implementing mechanism to change the rate for collection of USF funds;
- ✍ USF customers who were automatically enrolled in October 2003 shall have their initial benefit year extended until they can reapply to the program and begin receiving benefits for their second benefit year, if eligible, without an interruption in the delivery of USF benefits;
- ✍ Utilities will not be permitted to net out both their cumulative administrative costs and interest costs as of June 30, 2004 from their July remittance to the USF Trust Account; and
- ✍ The consultant report, as submitted by Apprise, is approved with Staff's recommended changes to the dates set forth in the implementation plan.

DATED: **6/30/04**

BOARD OF PUBLIC UTILITIES
BY:

SIGNED

JEANNE M. FOX
PRESIDENT

SIGNED

FREDERICK F. BUTLER
COMMISSIONER

SIGNED

CAROL J. MURPHY
COMMISSIONER

SIGNED

CONNIE O. HUGHES
COMMISSIONER

SIGNED

JACK ALTER
COMMISSIONER

ATTEST: **SIGNED**

KRISTI IZZO
SECRETARY